IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6908 of 1996
with
Civil Application No.9704 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

AMRUTBHAI SANKARBHAI RABARI

Versus

STATE OF GUJARAT

Appearance:
1. Special Civil Application No. 6908 of 1996
MR NV ANJARIA for Petitioner No. 1-3
Mr.Desai, Assistant GOVERNMENT PLEADER,
for Respondent No. 1
NOTICE SERVED for Respondent No. 2-3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 05/09/2001

ORAL JUDGEMENT

The applicants in C.A. No.9704 of 2001 have filed the aforeaid Special Civil Application, which has

been admitted and this Court has also granted ad interim relief, restraining the respondents from terminating the services of the petitioners who are serving on the posts of Peon/Drivers, respectively, with the respondent No.3-Gujarat Gopalak Nigam, which is converted into a Board.

During the pendency of the Special Civil Application, respondent No.3, which is converted into Gujarat Gopalak Vikas Board, has passed a Resolution dated 16.7.2001, by which it has been stated that those employees, who are serving since last 10 years as driver or peon by performing six hours' duty per day on part-time basis, have filed Special Civil Application before this Court in 1996 and there is an interim injunction in their favour. It is stated that these employees are hard working employees and are serving sincerely and satisfactorily. It is further stated in the G.R. that their services are required by the Corporation and accordingly, their case is to be sent to the State Government for getting sanction in order to absorb them regularly in the Corporation. On the basis of the said Resolution, the Managing Director has also sent proposal to the Secretary of the Government on 24th August, 2001, requesting the State Government to accord sanction to absorb the concerned three employees. It seems that the said matter is pending with the concerned Secretary of the Department. However, the petitioners were asked to withdraw the petition by the Corporation. Naturally when the petition is pending, perhaps the Department may not be in a position to take appropriate decision, and considering the G.R. of the Corporation, the State Government is directed to take appropriate decision on the proposal of the Gujarat Gopalak Vikas Board and may pass appropriate order. While considering the proposal of the Corporation, it is needless to say that since the Corporation requires the services of these employees, considering the fact that they are serving since last more than 10 years as well as considering the clear vacancies available in the Corporation, the State Government may pass appropriate order keeping the aforesaid aspect in mind and, I am sure that the Government will consider the aforesaid proposal of the Corporation in its true spirit. In that view of the matter, nothing further is required to be done in the main Special Civil Application itself. Since there is already interim relief against termination, the same is required to be continued till the Corporation takes appropriate decision for the purpose of regularizing the services of these petitioners after they receive decision from the State Government on their proposal which they

have submitted to the State Government. Interim relief granted earlier shall continue till the final decision is taken by the Corporation in this behalf. In case for some reasons, the State Government does not grant sanction to the Corporation for regularizing these three employees, then it would be open for these employees again to file substantive petition before this Court and, therefore, if the decision is against the petitioners, the same will not be implemented for a period of two weeks and the status quo to be continued for a period of two weeks from the date of such decision. However, in view of the Resolution of the Corporation, nothing further is required to be done and accordingly, the Special Civil Application is accordingly disposed of subject to the directions given hereinabove. Rule is discharged with no order as to costs. Interim relief shall stand vacated subject to the continuation of the same, as indicated above.

Civil Application No.9704 of 2001 also stands disposed of.

Direct service is permitted.

(P.B. Majmudar, J.)

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(apj)